

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

UNITED STATES OF AMERICA)
)
 v.) DOCKET NO. 1:17-CR-68(1)-MOC-DLH
)
 MOLLY PRICE)
)

**MOTION IN LIMINE REQUESTING IDENTIFICATION
CONSISTENT WITH DEFENDANT'S GENDER IDENTITY**

Molly Price, by and through her counsel of record, First Assistant Federal Defender John Parke Davis, respectfully moves the Court to enter an Order requiring her to be identified - at trial and in future court proceedings -consistent with her gender identity as a woman and that she be called by her preferred name of Molly Price. Ms. Price further moves the Court that she be referred to in front of the jury exclusively as female, and moves that any references to her as male or by her male birth name, whether in court documents such as the Indictment or other evidence, be redacted before presentation to the jury. In support of this motion, Ms. Price shows the Court as follows:

1. Ms. Price is a transgender woman. She has identified as a female from a young age, though she did not do so openly until approximately 2009. After her service in the Military, she began living full-time as a female. Since then, she has presented a female appearance and taken hormone therapy. Though she has not legally changed her name, she has used the name of "Molly" since approximately 2009.

2. The Supreme Court has held that the “Constitution promises liberty to all within its reach, a liberty that includes certain specific rights that allow persons, within a lawful realm, to

define and express their identity.” Obergefell v. Hodges, 135 S. Ct. 2584, 2593 (2015). Accordingly, Ms. Price requests that she be able to define and express her identity at trial and all future court proceedings.

3. Courts routinely identify and address transgender individuals consistent with their gender identity. See Farmer v. Cir. Ct. of Md., 31 F.3d 219, 220 n.1 (4th Cir. 1994) (“This opinion, in accord with Farmer’s preference, will use feminine pronouns.”); Farmer v. Haas, 1991 WL 26456, *5 n.1 (7th Cir. Mar. 1, 1991) (unpublished) (“Farmer prefers the use of feminine pronouns for self-description, and we will respect this choice.”); Barrett v. Coplan, 292 F. Supp. 2d 281, 283, n.1 (D.N.H. Nov. 20, 2003) (“The court recognizes that, although plaintiff is biologically male, it is painful to her to be referred to with a male pronoun. Therefore, because it does not appear that referring to Barrett as “she” will impair the clarity of this Order, I will refer to Barrett as “she.”); Doe v. United Consumer Fin. Serv., 2001 WL 34350174, at *1 n.4 (N.D. Ohio Nov. 9, 2001) (“As Doe refers to herself as female, the Court will do the same.”); Broadus v. State Farm, 2000 WL 1585257, *1 n.1 (W.D. Mo. Oct. 11, 2000) (“Since both parties refer to plaintiff using masculine pronoun, he, the Court will also refer to plaintiff as a male despite the fact that plaintiff filed suit under the name Karen Broadus.”); Smith v. Rasmussen, 249 F.3d 755, 756 n.2 (8th Cir. 2001) (“As did the parties during the proceedings in the district court, we will refer to Smith, in accordance with his preference, by using masculine pronouns.”).

4. Likewise, Ms. Price respectfully requests that this Court refer to her as a woman throughout trial and in future court pleadings and proceedings. Ms. Price further requests that she be referred to by her preferred feminine name of Molly Price and that the Indictment be redacted to reveal only her preferred name when presented to the jury. An appropriately redacted version of the Indictment is attached hereto as **Exhibit A** and incorporated herein by reference.

Additionally, Ms. Price requests that this Court require the government to refer to her as a woman and as Molly Price during the trial.

5. Counsel has contacted the government. The government has expressed that while it does not object to use of feminine pronouns, the name Molly, and other elements of courtroom treatment, it reserves its right to oppose after thinking through additional ramifications of this motion.

For these reasons, Ms. Price respectfully requests that this Court grant this Motion in Limine.

Respectfully submitted:

s/John Parke Davis
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DATE: August 4, 2017

CERTIFICATE OF SERVICE

I hereby certify that on this date, I served a copy of this **MOTION IN LIMINE REQUESTING IDENTIFICATION CONSISTENT WITH DEFENDANT'S GENDER IDENTITY** via electronic filing upon:

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